

REMARKS

Claims 82-105 are pending in this application. Claims 82, 83, 92, 95, 96, 98, 100, 102, and 104 are amended herein. No new matter is believed to be added by this response. Applicants submit that all of the claims are now in a form for allowance.

Claim Rejections – 35 U.S.C. § 103

Claims 82-92, 94, 95, 97, 98, 100 and 104 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Lasky (US 6,367,078) in view of Collings (US 5,828,402).

Applicants first submit that, for a *prima facie* case of obviousness, the cited prior art references (when combined) “must teach or suggest all the claim limitations” MPEP § 2143. Thus, if the combination of references does not teach each of the claimed limitations, a finding of obviousness fails. In addition, the Patent Office has the burden under § 103 to establish a *prima facie* case of obviousness, which can be satisfied only by showing some objective teaching in the prior art would lead one to combine the relevant teachings of the references. *See In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). As such, an Applicant, to overcome an allegation of obviousness, can show that the cited prior art references (when combined) do not teach or suggest all the claim limitations or that there is not an objective teaching in the prior art that would lead one to combine the relevant teachings of the references.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

1. Claims 82, 95, 98, 100, and 104

Claims 82, 95, 98, 100, and 104 are independent claims. They have each been rejected in the Office Action as being obvious over Lasky in view of Collings.

In the Office Action, it is provided that:

“Figure 6A clearly shows that the database stores a channel table that includes listings of a plurality of channels (see **Figure 6A storing multiple “channel number” fields 611**) and a plurality of respective bit fields (see **Figure 6A for each “channel number” field 611 having a corresponding “category”**)

field 617). Further note that Lasky incorporates by reference the ATSC standard for program guide categorization, which clearly discloses that the standard provides an 8-bit index to a classification of programs, therefore, Lasky clearly discloses a plurality of respective bit fields, where each category is represented by *a different set of bits*.” (Office Action, pg. 2. emphasis in italics added.)

Lasky provides the following:

“The *program-guide database* contains a record for each program, and each record has information for its program in fields as illustrated in FIG. 6A. *The channel-number field 611 contains the number of the channel on which the program is scheduled to appear. There is also at least a title field 612, a first time slot field 613, a start offset in minutes 614, a length in 30-minute time slots 615, an end offset in minutes 616, and a category field 617.* The start offset is the delay from the start of the first time slot to the start of the program. The end offset is the delay from the end of the last time slot until the end of the program. The EPG system does not assume that programs are assigned to a fixed list of categories or even to a fixed list of channels. The contents of a preferred embodiment of the program-guide database are entirely determined by a master program guide that is received from the television-distribution network at a data decoder 32. However, an illustrative list of categories is Movies (all), Sports (all), Specials (all), Series (Children, Comedy, Drama, other), News (Business, Current, General Interest, Sports, Weather) and Shopping. A data-input module 56 uses channel, title, time-slot and category information in the master program guide to fill in records in the program-guide data base and discards other information.” (Col. 5, line 64-Col. 6, line 19, emphasis in italics added.)

Therefore, it can be seen that Lasky teaches a database having a plurality of records and each record having a plurality of multi-bit data fields. The data fields include channel number, title, first time slot, start offset, length, end offset and a category field. Each of these data fields are comprised of multiple bits. This is to be distinguished from the bit mask of the channel table

as claimed in amended claims 82, 95, 98, 100, and 104, where the bit mask is comprised of a plurality of single bits where each bit of the bit mask is associated with a channel category and the value of each bit indicates whether the respective channel is associated with that channel category. Collings fails to correct the deficiencies of Lasky. Collings provides the following:

“Information about the categories in the system is transmitted in category type PRCC packets. A category type PRCC packet for the informational scheme of Table V could, for example, include the following fields: a type field (2 bits) containing the value 01b to indicate that this is a category type PRCC packet; a NUMBER field (4 bits) containing the number of the category described by the packet, as the age rating category is the first category in the scheme of Table V it could be identified by the value 0000b in the NUMBER field, the violence category could be identified by the value 0001b in the NUMBER field and so on; a BITS field (2 bits) containing a number representing the number of bits in the category (e.g. 3 for the age rating category); an ELEMENTS field (4 bits) specifying the number of levels that are defined in the category (for example, while the rating category could have up to 8 levels, only 6 levels are defined). Since every category must have at least one level, the value 0000b in the binary field could specify one level, and so on. The data above takes up 12 bits and so can be transmitted as two characters. The category type PRCC packet also contains a string containing the name of the category. For example, the age rating category of Table V could have a category type PRCC packet containing two non-ASCII characters containing the bit string 010000100101b followed by the ASCII characters RATING. The category names should be reasonably short, for example, 16 characters or less long, both to conserve memory in apparatus 20 and to reduce the amount of data in the PRCC packets.” (Col. 25, lines 3-30.)

Collings teaches tables having multi-bit fields, e.g., a type field (*2 bits*), a NUMBER field (*4 bits*), etc. Collings fails to teach or suggest a bit mask comprised of a plurality of single bits where each bit of the bit mask is associated with a channel category and the value of each bit indicates whether the respective channel is associated with that channel category. Therefore,

Collings fails to correct the deficiencies of Lasky and, as such, Lasky and Collings, alone or in combination, fail to teach suggest or make obvious all of the limitations of independent claims 82, 95, 98, 100 and 104, as amended. Therefore these claims are in a form for allowance over the cited references.

2. Claims 83-92, 94, and 97

Claims 83-92 and 94 depend from claim 82. Claim 97 depends from claim 95. As the Court noted in *In re Fine*, “dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious.” 5 U.S.P.Q.2d 1569, 1600 (Fed. Cir. 1988). Therefore, Applicants respectfully submit that because independent claims 82 and 95 are now nonobvious, claims 83-92, 94, and 97 are also nonobvious and are now in a form for allowance.

3. Claim 93

Claim 93 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Lasky (US 6,367,078) in view of Collings (US 5,828,402), further in view of Amano (US 5,585,865).

Claim 93 depends from claim 82. As shown above, Lasky in view of Collings fails to teach, suggest or make obvious to one of ordinary skill all of the claim limitations of claim 82. Amano fails to correct the deficiency in the teachings of Lasky in view of Collings. Namely, Lasky in view of Collings, further in view of Amano fails to teach, suggest or make obvious a bit mask comprised of a plurality of single bits where each bit of the bit mask is associated with a channel category and the value of each bit indicates whether the respective channel is associated with that channel category. Furthermore, claim 93 depends from an allowable base claim and as such is allowable. As the Court noted in *In re Fine*, “dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious.” 5 U.S.P.Q.2d 1569, 1600 (Fed. Cir. 1988). Therefore, Applicants respectfully submit that because independent claim 82 is now nonobvious, claim 93 is also nonobvious and is now in a form for allowance.

4. Claims 96, 99, 101-103 and 105

Claims 96, 99, 101-103 and 105 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Lasky (US 6,367,078) in view of Collings (US 5,828,402), further in view of Yuen (US 5,673,089).

Claim 96 depends from claim 95. Claim 99 depends from claim 98. Claim 101 depends from claim 100, and claim 105 depends from claim 104. As shown above, Lasky in view of Collings fails to teach, suggest or make obvious to one of ordinary skill all of the claim limitations of claims 95, 98, 100 and 104. Yuen fails to correct the deficiency in the teachings of Lasky in view of Collings. Namely, Lasky in view of Collings, further in view of Yuen fails to teach, suggest or make obvious a bit mask comprised of a plurality of single bits where each bit of the bit mask is associated with a channel category and the value of each bit indicates whether the respective channel is associated with that channel category. Furthermore, claims 96, 99, 101 and 103 each depend from an allowable base claim and as such is allowable. As the Court noted in *In re Fine*, “dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious.” 5 U.S.P.Q.2d 1569, 1600 (Fed. Cir. 1988). Therefore, Applicants respectfully submit that because independent claims 95, 98, 100 and 104 are now nonobvious, claims 96, 99, 101 and 103 are also nonobvious and are now in a form for allowance.

Claim 102 is an independent claim and claim 103 depends from claim 102. Yuen fails to teach or suggest a bit mask comprised of a plurality of single bits where each bit of the bit mask is associated with a channel category and the value of each bit indicates whether the respective channel is associated with that channel category. Therefore, Yuen fails to correct the deficiencies of Lasky and Collings, and as such, Lasky and Collings, further in view of Yuen, alone or in any combination, fail to teach suggest or make obvious all of the limitations of independent claim 102, as amended, and subsequently fails to teach, suggest or make obvious all the limitations of claim 103, which depends from claim 102. Therefore these claims are in a form for allowance over the cited references.

Furthermore, claim 103 now depends from an allowable base claim and as such is allowable. As the Court noted in *In re Fine*, “dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious.”

5 U.S.P.Q.2d 1569, 1600 (Fed. Cir. 1988). Therefore, Applicants respectfully submit that because independent claim 102 is now nonobvious, claim 103 is also nonobvious and is now in a form for allowance.

Second, the Supreme Court has reaffirmed the *Graham* factors for determination of obvious under 35 U.S.C. 103(a). *KSR Int'l Co. v. Teleflex, Inc.* (KSR), No 04-1350 (U.S. Apr. 30, 2007). The four factual inquiries under *Graham* require examination of: (1) the scope and contents of the prior art; (2) the differences between the prior art and the claims in issue; (3) the level of ordinary skill in the pertinent art; and (4) the objective evidence of secondary consideration. *Graham v. John Deere (Graham)*, 383 U.S. 1, 17-18, 149 USPQ 459, 467 (1966); see also 35 U.S.C. § 103 (2000).

The Court has further recognized that the requirement for a teaching, suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, which was established by the Court of Customs and Patent Appeals, provides a helpful insight for determining whether the claimed subject matter is obvious under 35 U.S.C. § 103(a).

Where an invention is contended to be obvious based upon a combination of elements across different references, one should be able to identify particular reasons that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements. *See, KSR Int'l Co.*, at 14, 15. This requirement prevents the use of “the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight.” *Ecolchem, Inc. v. So. Cal. Edison Co.*, 227 F.3d 1361, 1371-72 (Fed. Cir. 2000) (quoting *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999)).

Applicants submit that the current construction of the cited references in the manner provided in the Office Action requires hindsight reasoning, which the Federal Circuit has explicitly rejected. *See In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). It would not have been obvious to one of ordinary skill in the art to combine Lasky in view of Collins as both references, together or alone, fail to teach, suggest or make obvious tone of ordinary skill in the art a channel table as disclosed and claimed in the present application. In particular Lasky in view of Collings, further on view of Amano or Yuen fail to teach, suggest or

make obvious a bit mask comprised of a plurality of single bits where each bit of the bit mask is associated with a channel category and the value of each bit indicates whether the respective channel is associated with that channel category. Applicants earnestly request reconsideration, withdrawal of these rejections, and allowance of claims 82-105.

Conclusion

In this response, claims 82, 83, 92, 95, 96, 98, 100, 102, and 104 are amended. Claims 82-105 are pending in this application. No new matter is believed to be added by these amendments. Thus, Applicants respectfully request allowance of all the pending claims.

No fee is believed due beyond the fee for the Request for Continued Examination and the one-month EOT that accompanies this paper; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted on behalf of the Applicants,

/David A. Cornett/
David A. Cornett
Registration No. 48,417

Customer Number 05642